



U.S. ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 SIXTH AVENUE
SEATTLE, WASHINGTON 98101

NOV 26 1985

REPLY TO
ATTN OF M/S 533

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Warren Bingham

(b) (6)

Re: Request for Information Pursuant to Section 3007 of the Resource Conservation and Recovery Act, 42 U.S.C. Section 6927

Dear Mr. Bingham:

Earlier this year, the Environmental Protection Agency (EPA) sent your company a letter to advise you that the Resource Conservation and Recovery Act (RCRA) had been amended by the Hazardous and Solid Waste Amendments of 1984 (the Amendments), and in particular to inform you of a new provision known as the loss of interim status (LOIS) provision. The purpose of this letter is to provide additional guidance relative to the LOIS provision and to request information regarding your operations before and after November 8, 1985.

The loss of interim status provision provides:

(1) In the case of each land disposal facility which has been granted interim status under this subsection before the date of enactment of the Hazardous and Solid Waste Amendments of 1984, interim status shall terminate on the date twelve months after the date of the enactment of such Amendments unless the owner or operator of such facility:

(A) Applies for a final determination regarding the issuance of a permit under Subsection (c) for such facility before the date twelve months after the date of the enactment of such Amendments; and

(B) Certifies that such facility is in compliance with all applicable groundwater monitoring and financial responsibility requirements.

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The Environmental Protection Agency's interpretation of the requirements under this provision is published at 50 Federal Register (September 25, 1985), a copy of which is enclosed. Please read this closely. In order for you to continue to place hazardous waste in land disposal units at your facility on and after November 8, 1985, by that date you must have (1) submitted a Part B operating permit application, and (2) a certification of compliance with all applicable groundwater monitoring and financial responsibility requirements. Certification is authorized on a unit-by-unit basis. The Part B application should have been mailed or delivered before November 8, 1985, to both this office of EPA and to Idaho Department of Health and Welfare headquarters office. The certification should also have been mailed or delivered before November 8, 1985 to these same offices.

No certification was received by EPA from your facility. Therefore, your facility has lost interim status for land disposal activities. Please note that the loss of interim status does not relieve your facility from the responsibility and obligation to comply with interim status requirements but does prohibit continued hazardous waste land disposal activity.

Certification of compliance may have only been made if the facility or unit(s), for which interim status was desired, was in physical compliance by November 8, 1985. Because this is a provision of federal law, an order by any agency that has a compliance date on or beyond November 8, 1985, does not relieve the owner/operator of the obligation to have been in physical compliance by the statutory date when the certification was due. You may not interpret or rely on an order or compliance schedule therein as an extension of the November 8, 1985 deadline. Moreover, difficulties in achieving compliance, such as obtaining insurance, were not grounds for filing a certification if you were not in physical compliance.

Since you did not certify compliance with groundwater monitoring and financial responsibility requirements and/or you did not submit a Part B permit application by November 8, 1985, the facility was to cease the placement of hazardous wastes in the land disposal unit(s) in question by that date and you must comply with all closure and post-closure requirements. This follows by operation of law and does not require notice from EPA.

Request for Information

You are hereby requested, pursuant to the authority of Section 3007 of RCRA, 42 U.S.C. Section 6927, to report to EPA information regarding hazardous waste land disposal units that had interim status on or before November 8, 1985, and/or received or contained (i.e., stored) hazardous waste after November 19, 1980. In particular, you are to submit the information specified in Paragraphs 1 through 4 of Enclosure I by December 15, 1985. The submission must: identify the facility by name,

address, and RCRA identification number; refer to the information request paragraph number or repeat the request; be a self-explanatory and complete response; and be dated and signed.

You may, if you desire, assert a business confidentiality claim covering part or all of the information requested, in the manner described by 40 CFR Section 2.203(b). You should read the above-cited regulations carefully before asserting a business confidentiality claim, since certain categories of information are not properly the subject of such a claim. Information covered by such a claim will be disclosed by EPA only to the extent, and by the means of the procedures, set forth by 40 CFR Part 2, Subpart B. If no such claim accompanies the information when it is received by EPA, it may be made available to the public by EPA without further notice to you.

Please forward the information requested to:

Kenneth D. Feigner, Chief
Waste Management Branch (M/S 533)
U.S. Environmental Protection Agency
1200 Sixth Ave.
Seattle, WA 98101

Failure to comply with the above request within the timeframe specified may result in an enforcement action by EPA under the authority of Section 3008 of RCRA, including the assessment of penalties. You should also be aware that knowing falsification of any information provided pursuant to this request is a criminal violation under Section 3008(d) of RCRA, and other provisions and may result in fines and imprisonment.

If you have any questions with regard to the above, or should you need further clarification regarding your response to this letter, please contact Charles Rice or Wayne Pierre of my staff at (206) 442-0695 or (206) 442-7261, respectively.

Sincerely,

Randall F. Smith
For Charles E. Findley, Director
Hazardous Waste Division

Enclosure

cc: L. McKee, IOO (w/enclosure)
S. Provant, IDHW (w/enclosure)

ENCLOSURE I

For purposes of this information request, the following definitions shall apply:

"Hazardous waste" means those solid wastes identified as hazardous waste in 40 CFR Part 261, or the authorized state program in which a facility is located, whichever is more inclusive.

"RCRA Land Disposal Units" shall include landfills; land treatment units; surface impoundments used for storage, treatment, or disposal; waste piles; and Class I hazardous waste underground injection wells subject at any time to regulations under Subtitle C of the Resource Conservation and Recovery Act.

INFORMATION REQUEST

(1) Identify each RCRA land disposal unit at your facility, whether or not a certification was submitted for each, by stating the common name or identifier used by the facility and type of unit, and by identifying the unit on a photocopied (or original) topographic map attached to your response.

(2) Identify each RCRA land disposal unit at your facility which was not the subject of a certification of compliance with all applicable groundwater monitoring and financial responsibility requirements and a Part B permit application, transmitted to EPA by November 8, 1985. Indicate for each the common name or identifier used by the facility. Each unit must be identified on the topographic map in response to information request number 1 above.

(3) For each RCRA land disposal unit at your facility which was not the subject of a certification of compliance with all applicable groundwater monitoring and financial responsibility requirements and a Part B permit application transmitted to EPA by November 8, 1985, state when and to whom a closure plan was submitted.

(4) For each RCRA land disposal unit at your facility which was not the subject of a certification of compliance with all applicable groundwater monitoring and financial responsibility requirements and a Part B permit application transmitted to EPA by November 8, 1985:

a. State the type and average quantity of hazardous wastes placed in each on a daily (or monthly) average during the year prior to November 8, 1985.

b. State when the unit ceased receiving hazardous waste.

c. State whether hazardous waste was placed in the unit at any time between November 8, 1985, and December 15, 1985.

d. State how the hazardous waste introduced into the unit before November 8, 1985, has been treated, stored, or disposed of between November 8, 1985, and December 15, 1985.

If waste is stored on-site, report:

- (i) The type of storage,
- (ii) The quantity presently in storage, and
- (iii) The rate of generation.

e. State how you intend to treat, store, or dispose of that hazardous waste (identified in "d") henceforth, including the identity of any off-site facility to which you intend to ship it.